

two funds may be had provided that if a single accounting system is provided, that each of the funds, or rather the expenditures therefrom, be properly earmarked so that no moneys in one fund or appropriated for one fund will be used for purposes of the other fund. In brief, that the accounting system be so arranged as to in fact show that expenditures for Unemployment Compensation division purposes are taken from that particular fund and that expenditures for Employment Service purposes are taken from the Employment Service Fund. And further, that such system show beyond question the appropriations made for each division from time to time as such appropriations are made. Of course, such accounting system as may be provided should meet the approval of the State Controller and, we think, also the approval of the State Auditor.

Yours very truly,

GRAY MASHBURN, Attorney-General.

By W. T. MATHEWS, Deputy Attorney-General.

B-7. Elections--Declaration of Candidacy.

Declarations of candidacy for office, nonpartisan and otherwise, must actually reach the office of the County Clerk before the time specified in the law expires in order to constitute a lawful filing of such candidacy. Mere deposit in the United States post office by the candidate prior to the expiration of that time, or even its arrival at the post office in the county seat prior to that time does not constitute a lawful filing for office or declaration of candidacy.

CARSON CITY, August 16, 1940.

HONORABLE MARTIN G. EVANSON, District Attorney, Hawthorne, Nevada.

DEAR MARTIN: Your mother has just brought me your letter of 16th instant addressed to "Attorney-General," and in which you ask for the written opinion of this office as to whether a candidate for the nonpartisan office of Justice of the Peace who deposited his declaration of such candidacy in the United States Post Office at a post office not at the county seat of the county on Friday before the time for filing such declaration with the County Clerk of the county ended at noon the immediately following day (Saturday), but his declaration of candidacy was not received by the County Clerk at his office in the county seat until the next succeeding Monday, which was after the time for the filing of such declaration had fully expired, is legally entitled under the law of this State, to have his declaration of candidacy for that office filing, although not received by the County Clerk until after the time for filing of such declarations had closed, and, in such a case, to have his name placed upon the official ballot for that office.

Much as I regret to do so, I am compelled by the law and the facts as stated above and by you in your letter to me of 16th instant, to hold, as I have already held in my telephone conversation with you, that it is the unqualified official opinion of this office that the declaration received in the office of the County Clerk after the time for filing such declarations had expired,

as above stated, cannot be legally filed or the candidate's name legally placed upon the ballot. When the law says that such declarations shall be filed with the County Clerk, or in the office of the County Clerk, within the time specified by law, it means exactly what it says. The place of filing is the office of the County Clerk, not the deposit of the declaration in the United States Post Office anywhere, *i.e.*, either in some other post office or even in the post office in the county seat. If it actually arrives in the office of the County Clerk after the expiration of the time of filing, then it cannot legally be filed or the candidate legally placed upon the ballot. Like all other candidates for nomination or office, this particular candidate had many, many days within which to make up his mind and actually file his declaration of candidacy in the office of the County Clerk. If he failed to do so, then the fault was his own, not the fault of the law and not the fault of the County Clerk or any other officer. The rule of law is well settled that, when a person deposits a thing, no matter what kind of a thing, in the United States mail, he makes the United States mail his own agent, not the agent of the County Clerk. In fact, it is fundamental that no other person can appoint some other person's agent. In other words, the County Clerk alone has the power to select his own agents, or to make other persons or means his agent or agencies.

Hoping this will serve your purpose and with best wishes, I am,

Sincerely yours,

GRAY MASHBURN, Attorney-General.

SYLLABUS

298. Fish and Game Law--Fee for Nonresident Larger Than Fee for Resident--False Representation Violates Law.

Fee for nonresident license is larger than for license to residents of State; and securing resident's license to hunt by false representation that applicant is resident of Nevada and paying the smaller fee required therefor by false representation is violation of State law, and is punishable as such.

STATEMENT

CARSON CITY, August 21, 1940.

Pursuant to your telephone request for the official opinion of this office on point of law to be presented to me in person by Mr. J. C. Savage, I am writing to give you the official opinion of this office on the point involved relating to the fish and game law of this State, particularly as to whether a nonresident who signs an application for a hunting license in which he states positively that he is a resident of this State and thereby secures a hunting license as a resident and at the smaller fee charged to nonresidents therefor, has violated the laws of this State. The particular instance involved as stated to me by Mr. Savage relates to the case of State of Nevada v. J. H. Cawley, in the Justice's Court at Winnemucca, Nevada.